

SPECIAL FARMINGTON CITY COUNCIL MEETING

Wednesday, June 11, 2003

CITY COUNCIL WORK SESSION

PRESENT: Mayor David M. Connors, Council Members David Hale, Bob Hasenyager, Larry W. Haugen, Susan T. Holmes, City Manager Max Forbush, and Deputy Recorder Jeane Chipman. Council Member Edward J. Johnson was excused.

Mayor Connors began discussion at 6:00 P.M. The following items were reviewed:

- ▮ Agenda Item #2–Consideration of proposal for City Council to create a storm water utility fee. Mr. Forbush informed the City Council it would be possible, if they felt it necessary, to defer action on the item to allow time for more study. He explained the Federal mandate and how it could be implemented.
- ▮ Agenda Item #7–Consideration of a resolution to create a Special Improvement District (S.I.D.). Mr. Forbush reminded Council Members that they had voted to delete areas 2b, 2c, 4, 5a, 5d, and 5e. The remaining proposed S.I.D. areas were briefly discussed.
- ▮ Agenda Item #3– Amendment No. 1 to Oakridge Country Club agreement. Mr. Forbush stated decorative lighting within the Club project would be owned by the City. The element of the agreement that had been negotiated was any eventual fencing relocation. Language in the amendment proposed that no relocation could take place unless acceptable to both the City and the Club.
- ▮ Agenda Item #4–Approval of 475 South Street dedication plat. Mr. Forbush stated provisions in the proposed S.I.D. cannot be implemented until 475 South Street is dedicated.
- ▮ Agenda Item #6–Agreement with Ross Consulting Company. Mr. Forbush said the agreement was a new draft for the consideration of the Council.

REGULAR CITY COUNCIL/CITY CHAMBERS/CALL TO ORDER

PRESENT: Mayor David M. Connors, Council Members David Hale, Bob Hasenyager, Larry W. Haugen, Susan T. Holmes, Edward J. Johnson, City Manager Max Forbush, City Recorder Margy Lomax, and Deputy Recorder Jeane Chipman.

Mayor Connors called the meeting to order at 7:00 P.M. The invocation was offered by **David Hale** and the Pledge of Allegiance was led by **Larry Haugen**.

PUBLIC HEARING: CONSIDERATION OF PROPOSAL FOR CITY COUNCIL TO

CREATE A STORM WATER UTILITY FEE (Agenda Item #2)

Mayor Connors addressed the citizens present. The decision to create a storm water utility fee to fulfill Federal mandate was not being taken lightly. Both the Mayor and members of the City Council were very interested to hear public input.

Mr. Forbush introduced the agenda item by reviewing the Federally mandated Clean Water Act guidelines. The basic goal of the EPA program was to reduce storm drainage pollution in stream channels and other receiving waters. A major portion of the proposed storm water utility fee would be used for compliance costs. Two other proposed uses for the storm water fees would be: 1) to replace and upgrade the drainage system as needed, and 2) to pay for flooding mitigation within the City. The fees would only cover storm water runoff and not ground water. Funds raised by the fees would only be used for specific storm utility uses and not for other municipal functions.

A study of 100 single family homes across Farmington had been conducted by City Staff and the City Engineer. The study helped establish Equivalent Service Unit (ESU) for use in setting fee amounts. An ESU is the average amount of impervious surface, expressed in square feet, on developed parcels in the City. It was believed that the sample of over 100 single family homes gave a credible average from which to calculate the ESUs. (The specific fee rationale would be covered later in the meeting.)

The City had been required by the State of Utah (who has primary function for these Federal rules) to apply for a permit which necessitated compliance with measurable goals in six broad compliance areas. Regulations prescribed by the State of Utah as a result of the Federal mandate were titled "Utah Pollutant Discharge Elimination System" or UPDES. In working with Davis County, it has been decided the County would handle three broad areas of the regulations and Farmington City (and other similar small Davis County cities) would handle the other three regulatory areas. (Mr. Hirst, City Engineer, would cover specifics regarding the regulations later in the meeting.) The City's portion of compliance dealt with good house keeping techniques (such as street sweeping and grate cleaning) and what had been termed Best Management Practices (BMP's). Mr. Forbush said that the main pollutants in the drainage system are siltation and erosion materials.

When studying the mandates by the Federal government it was recognized that Farmington City could not achieve the goals by using existing City funds. Some Utah cities could fund the program without an additional fee because of their large commercial tax base or other revenues not available to Farmington. The creation of the Storm Water Utility Fee was the most reasonable option for Farmington. Mr. Forbush distributed copies of the proposed enacting ordinances and explained that about 55% of the proposed fee would be used to deal with the Federally mandated goals, 25% would pay for flood mitigation in the City, and about 20% would go into a replacement/upgrade fund.

The draft ordinance addressed rational for implementation and endeavored to set fair fees

for all developed properties in the City. The ordinance described policies which would allow credits for non-residential entities who implement acceptable mitigation techniques. Undeveloped property and streets would be exempt. There would probably be an inter-local agreement between the City and Davis County for its property at the Justice Complex and Fairgrounds, since all of that runoff water is pumped into Farmington Creek.

Mr. Forbush stated Farmington had hired a consultant and had participated with a consortium of 15 other municipalities, who had joined together to deliberate management and equitable implementation of the mandate.

Paul Hirst, City Engineer, explained that he and City Staff had been studying and working on implementation of the Federal mandate for about 15 months. The consortium mentioned by Mr. Forbush included representatives from 15 municipalities and included Davis and Weber County officials, city engineers and managers, public works officials, and others from the municipalities. The consortium divided the tasks involved to produce an efficient working committee. Regulations prescribed by the State of Utah as a result of the Federal mandate, UPDES, included: 1) public education, 2) public involvement, 3) illicit discharge detection and elimination, 4) construction site runoff control, 5) post construction site runoff control, and, 6) pollution prevention and good house keeping. As mentioned before, the first 3 conditions would be handled by Davis County. The second 3 would be the responsibility of the cities.

Farmington City was also required to secure a reliable source of funding to keep the program moving forward. A report must be filed including the plan for funding. Staff suggested the following steps be taken by the City: 1) assess management needs, 2) identify costs, 3) establish an equitable rate for assessment, and 4) adopt an enacting ordinance. Mr. Hirst stated that even though much of the storm water drainage system in the City is very old, it is basically in very good condition. He estimated the majority of the system could last for up to 30 more years. However, it would be reasonable and prudent to establish a fund for eventual replacement and/or update.

Bryan Harwood (CRS Engineering) explained the method of creating the ESU. As a result of the 100-home survey, Farmington City's ESU had been set at 3,819 sq. ft. In the study, each property with a single family dwelling is said to contribute the same amount of runoff or 1 ESU. All other developed parcels would be assessed an ESU for every 3,819 sq. ft. of impervious surface. The number of ESU for non-residential parcels is determined by dividing the actual measured impervious surface of that parcel by 3.819 sq. ft.

Mr. Forbush said other cities' ordinances had been reviewed. Farmington's draft enacting ordinance had been looked at by the City Attorney and by the City Council. He recapped elements of the ordinance including the purpose statement, definitions, how billing would occur, and how a vigorous attempt had been made to create an equitable fee rate. The plan was to have those who generate the most runoff water pay an equivalently larger amount. Mr. Forbush reviewed possible exemptions, appeal processes, feasible adjustments, and credit policies and procedures. The credit policies were a matter for discussion.

When asked, Mr. Forbush stated there would be a \$10,000 per day fine imposed by the Federal government for non-compliance to the mandate. Best Management Practices must be in place soon. It may be possible for the City Council to postpone action to allow for further study and consider the ordinance again in July. At that time the Council could take action and make it effective retroactive to July 1, 2003, thus meeting requirements. The current fee proposal is between \$5.00 and \$5.50 per single family dwelling.

Public Hearing

Mayor Connors opened the meeting to a public hearing.

Bill Husbands (84 East 1340 South) was opposed to the additional fee and stated that the cost would be excessive. He questioned the need for the fee and felt that the City could achieve the Federal requirements in a different manner.

David Freed (Lagoon Corporation representative) said he had received information about the proposed Storm Water Utility Fee the end of last week and had not had sufficient time to review all the facts. Lagoon had hired a consultant to help in studying the fee imposed upon the Corporation. Lagoon had just experience 3 bad business years and the economy in general was in a down swing. It was a very bad time to have the City charge such an exorbitant fee. He referred to a letter from the Corporation which he distributed to all City Council members and stated that according to Lagoon officials' calculations, their assessed fee would be equivalent to 900 single family homes. The charge would exceed their current monthly water bill by \$600 per month. According to the ordinance, the most credit that could be obtained by the Corporation was 65%. He felt there would be a different way to achieve the requirements of the Federal program. In fact, Lagoon's study of the history and requirements of the Federal Clean Water Act had revealed the City's approach to the regulations were probably excessive and unnecessary. The City was not required to go to the extent proposed. The \$360,000 estimated needed revenue per year would not be needed for a scaled down, yet adequate, version of Best Management Practices. Further, the EPA does not require the City to tax its residents to achieve the goals imposed. Mr. Freed also stated his understanding that part of the fee would be used for infrastructure improvements, from which Lagoon would not benefit. He felt that the park did not add to the flood potential of the City and that Lagoon was being asked to pay for problems for which they were not the source. Indeed, if anything, Lagoon had been the source of solutions because of their maintenance practices and detention lake and drainage systems.

Dal Freeman (Lagoon Corporation, resident at 1825 Oak Hampton) said the Clean Water Act was another example of more government intervention with no funding. He said the City's plan for BMP was very costly. The EPA's rules for Phase II (affecting small towns such as Farmington) gave standards which were very broad. He felt the essence of the Act was already being observed by the City and the Corporation. It was a matter of reporting what was being accomplished. Mr. Freeman stated that within the broad spectrum of what could be done, the basics were already being achieved. He also stated that the cost of the fee imposed would increase Lagoon's costs by 11 percent.

Katherine Bramblin (Lagoon consultant and research specialist) stated that she had spoken with government EPA officials regarding the standards and had found that there were no requirements set in stone. The general goal was to increase the quality of the water. The extent to which UPEDS regulations were implemented depended upon the municipality involved. She also stated that the City would have 5 years to work with their plan after they applied for a permit and that the immediate imposition of the exorbitant fees was unnecessary. If the cities and the states could show proof of good faith efforts in achieving the 6 stated goals, no penalties would be charged. There is also no specific requirement for the amount of money to be spent by cities on the program.

David Potter (1745 North Main) reported he had worked with several different water boards and entities in the area, including the FAPID Board. He concurred that standards set by the EPA were not hard, set rules. The only standard that would be required of the City would be to make consistent improvements in the water quality. Mr. Potter stated the City did have problems with their storm water conveyance system which needed to be improved. After every storm he had to clean out drainage pipes near his property because the City would not respond to his requests for assistance. He cleaned out the pipes because this type of contamination was not acceptable. The wrong pipes had been installed along with the wrong type of grates. Those needed to be changed. Mr. Potter felt that those were the kinds of things the City should be doing. He felt the EPA would recognize any attempt and that a list of the good things the City is doing should be submitted as proof of compliance to the requirements. Citizens should not be burdened further.

Gene Mann (56 North Main, owner of property at 57 North Main) stated that all runoff on Main Street ended up on his property. He also had to clean out drainage systems after every storm. Mr. Mann felt that one cause of problems was the dump trucks that consistently used Main Street. He felt such trucks should be required to cover their loads and to help pay for the cost of any improvements.

Calvin Ferrin (207 West 900 North) complained that there was no storm drainage system along 900 North or along 1000 North. Some grates that are in the area are in the wrong place, contributing to the flooding of basements. He said he felt the citizens should not have to pay for a problem they did not create.

Public Hearing Closed

With no further comments, **Mayor Connors** closed the public hearing and asked for consideration by the City Council. The Council discussed the issues, including the following points:

- ▮ In order to comply with the Federal mandate, the City must work on BMP's and move forward. Some actions could be deferred, however, future costs will see increases.
- ▮ The City had taken an aggressive approach, as had many small cities in the State,

for several reasons. The need for improvements were obvious, costs efficiency was considered, having the issues settled saving further manpower expenditure was considered, and the urgency of flood mitigation was noted.

- ↯ Some comments made by citizens proved the need for an improvement in the way the City maintains its drainage system.
- ↯ The City currently is not doing a good job of cleaning out drainage systems nor keeping streets clean because time and resources are not available.
- ↯ Every city will approach UPDES compliance differently. Every city has different revenue sources. A large percent of Farmington's revenues comes from property tax. Farmington at this time does not have much of a non-residential tax base.
- ↯ Mr. Hasenyager asked what would happen if Lagoon was able to manage 100 percent of their storm water runoff quality control on site. Mr. Forbush stated the City Council would need to determine which of the "Annual Operation and Maintenance Costs" items should be implemented, which should be deleted or reduced thereby setting the budget for the utility. The budget would have to be met, whether or not Lagoon participated. If Lagoon did not participate, the cost of the determined budget would be spread among the remaining City entities, including residents. Therefore, if Lagoon did not participate, costs to other non-residential parcels and to home owners would go up accordingly. Funding the utility in a equitable manner would require a balance between residential and commercial participation.
- ↯ Mr. Hirst commented that Lagoon could not at this point obtain 100 percent credit unless they engaged in an enormous construction program.
- ↯ Mr. Hasenyager stated his belief that prudent government would not drag their feet or focus on the minimum requirement with the hope of squeaking by. He also suggested that UDOT be approached regarding the trucks running along Main Street (a UDOT road) to have the haulers control the dirt and dust created by their traffic.
- ↯ Ms. Holmes commented that Lagoon's issues need to be carefully addressed. The Corporation was a good source of economy for the City, a good neighbor, and a responsible water quality proponent.
- ↯ Mr. Hale suggested a Council sub-committee be formed to further study the issues. The sub-committee could meet with representatives of the Lagoon Corporation and all interested parties.
- ↯ Ms. Holmes asked that the notification policy of the City be reviewed. Complaints had been made by citizens who felt they were not properly advised of pending

Council actions.

- ▮ Council members felt they would like to become more familiar with BMP guidelines as published by the EPA. Mr. Forbush stated the publication was extensive.
- ▮ Ms. Holmes stated she had questions why taxes had not been increased to handle the increased need for revenue, thereby spreading the costs more evenly. She explained that she had learned the fee approach was more equitable because the fee more closely targeted the source of the problem. Those who help generate the storm water and possible pollution are asked to pay the cost for improvement.
- ▮ Mr. Hasenyager noted the resistance towards the increased cost of running the City (specifically at this point, the UPDES), but if a not-so-uncommon 100-year storm should happen, it would bring urgent and adamant requests for immediate storm drainage improvements.

By consensus, the City Council decided to do the following:

- Have a Council Committee meet with representatives of the Lagoon Corporation and other interested parties to discuss mandate funding and implementation.
- Allow time for the City Council to discuss and resolve fee equity issues and credit policies and procedures.
- Have the City Engineer delay work on flood mitigation designs until the Storm Water Utility Fee ordinances is adopted.
- Write a letter to UDOT regarding the pollution caused by truckers using Main Street.
- Plan to take action no later than the end of July, at which time action taken can be made retroactive to July 1, 2003, thus meeting the deadline imposed by Federal guidelines.

AMENDMENT NO. 1 TO OAKRIDGE COUNTRY CLUB AGREEMENT (Agenda Item #3)

Mr. Forbush stated the amendment had been redrafted to provide joint approval by both the City and the Oakridge Country Club prior to relocation of Club fences.

Motion

Ed Johnson moved that the City Council to approve Amendment No. 1 to the Oakridge Country Club Agreement and to authorize the Mayor to sign said Amendment. **Larry Haugen**

seconded the motion, which passed by unanimous vote.

APPROVAL OF 475 SOUTH STREET DEDICATION PLAT (Agenda Item #4)

Mr. Forbush explained that provisions of the Special Improvement District dictated that 475 South Street must be dedicated before improvements can be made on the street.

Motion

David Hale moved that the City Council approve the dedication of 475 South Street. **Susan Holmes** seconded the motion, which passed by unanimous vote.

POSSIBLE AMENDMENT TO DENNIS AND DANELLE NELSON AGREEMENT (Agenda Item #5)

Applicants were not present. No action was taken.

AGREEMENT WITH ROSS CONSULTING COMPANY (Agenda Item #6)

After a brief discussion and by consensus, the City Council directed Staff to do the following:

1. Exhibit "A" should include language which clearly directs that commercial endeavors should be the type most beneficial to the City, e.g., long term, provide maximum revenue, high quality, low impact.
2. The term "development value" (2) needs to be defined.
3. "2c" should state: Quantify extent to which municipal subsidy *may be*. . .
4. The City Council would like to meet with the consultant to review intent. The process undertaken by the City Council in many previous meetings needs to be taken into account.
5. Typos in the text need to be corrected.

CONSIDERATION OF A RESOLUTION TO CREATE FARMINGTON CITY SPECIAL IMPROVEMENT DISTRICT NO. 2003-01 DESCRIBED IN THE NOTICE OF INTENTION CONCERNING THE DISTRICT AND AUTHORIZING THE CITY OFFICIALS TO PROCEED TO MAKE IMPROVEMENTS AS SET FORTH IN THE NOTICE OF INTENTION TO CREATE THE DISTRICT; AND RELATED MATTERS (Agenda Item #7)

Mayor Connors reviewed action previously taken by the City Council. The City Council had deleted areas 2b, 2c, 4, 5a, 5d, and 5e. He asked that the City Council consider the rest of the

areas one by one.

Oakridge Farms–Street Lighting. **Mr. Hale** reported he had met with citizens in the neighborhood and had walked the area under consideration. After discussions, some of the citizens who had opposed the project withdrew their opposition. Safety was a key element for the change of opinion. However, some were still hesitant about the cost. Mr. Hale also reported having spoken with UP&L representatives who had indicated the costs would likely not be as high as first estimates. Mr. Hale met at night a second time with citizens of the neighborhood and staked proposed locations for the light poles. They decided on from 12 to 20 poles, which was the same recommendation that came from UP&L.

Jonathan Ward (Zion's Bank) explained reserve funds would be in place at the first of the loan. Property owners would pay a pro-rated amount yearly. Usually the bulk of the final year's payment is paid with the reserved funds. State statutes require the funds be secured. In response to a question regarding the fairness of having current home owners pay the entire cost when there are still undeveloped lots in the area, Mr. Ward stated legal requirements directed assessments be calculated by dividing the number of unabuildable lots by the number of homes.

Mr. Forbush stated disputes could be taken before an equalization board for adjustment.

Mayor Connors cautioned that the City Council could not guarantee final costs at this point.

Mr. Hale stated he felt the City Council would want to work with the citizens regarding costs and placement of each light. He recommended the Oakridge Farming light project be included in the S.I.D.

Summerwood–Light project. **Mayor Connors** stated he would not be included in the decision-making process regarding this area because he is a resident. He noted there was only 20 percent of the residents who had protested.

450 South/Buckley Property–Sidewalk, curb, gutter installation. **Mayor Connors** stated he had looked at the property and felt there needed to be a sidewalk there for the benefit of pedestrians, especially children traveling to Farmington Elementary.

David Hale agreed with the Mayor and said it looked as if pedestrians would have to go quite a distance out into the street because of the tree, presenting an unsafe situation.

Susan Holmes did not feel there was a need to require the sidewalk. She wanted to save the big tree and felt perhaps just curb and gutter would provide what was needed. Ms. Holmes indicated there were several other areas in the town where children travel to and from school and there is no sidewalk. It seemed an unnecessary burden on the young family.

Larry Haugen felt Farmington should be a walkable community and supported the sidewalk installation.

Max Forbush explained that the City had been concerned about 450 South for years. At one point, the City considered sidewalk on the south side of that street, but the steep grade on the property made the installation very difficult.

Bob Hasenyager suggested the City look at replacing the tree, if indeed it must be removed.

Motion

Bob Hasenyager moved that the City Council adopt the resolution to create Special Improvement District No. 2003-01 of Farmington City, Davis County, Utah, described in the Revised Notice of Intention concerning the District and authorizing the City Officials to proceed to make improvements as set forth in the Notice of Intention to create the District. The Revised Notice of Intention deletes areas 2b, 2c, 4, 5a, 5d, and 5e.

Ed Johnson seconded the motion, which passed by unanimous vote.

BUDGETARY ISSUES/UPDATE (Agenda Item 8)

Keith Johnson reviewed the Farmington City Corporation Budget/General Fund Balance. A brief discussion ensued. By consensus, the City Council decided to meet at 6:00 P.M. on June 18, 2003, to meet with Mr. Wooten of Ross Consulting.

MISCELLANEOUS

Father of the Year Award Dinner

Mr. Haugen volunteered to attend the award ceremony in place of the Mayor who had another commitment. The program would be held June 12th and would honor Steve Christensen from Farmington.

New Road Name and Signage

Mayor Connors stated the proposed name for the new connection between Main and Clark Lane will not fit on a sign. Developers of the proposed commercial area in west Farmington suggested "Park Blvd." The Council briefly discussed the issue and decided, by consensus, to address the issue during a public hearing on July 16th.

ADJOURNMENT TO CLOSED SESSION FOR REASON PERMITTED BY LAW

Larry Haugen Moved that the City Council adjourn to closed session at 10:10 P.M.

Farmington City Council

Margy Lomax, City Recorder
Farmington City

Wednesday, June 11, 2003